

State Office of Administrative Hearings



TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2007 OCT -5 AM 11:03

CHIEF CLERKS OFFICE

Shelia Bailey Taylor
Chief Administrative Law Judge

October 3, 2007

Celeste Baker
Acting General Counsel
Texas Commission on Environmental Quality
PO Box 13087
Austin Texas 78711-3087

**Re: SOAH Docket No. 582-06-1581; TCEQ Docket No. 2005-1720-MWD;
Application of Midtex Partners, Ltd., for Water Quality Permit No. 14472-001,
Authorizing the Disposal of Treated Domestic Wastewater**

Dear Ms. Baker:

This is in response to the exceptions that the City of Pflugerville (Pflugerville) filed to my Proposal for Decision (PFD) in the above case. The Office of Public Interest Counsel filed a reply and agreed with Pflugerville's exceptions. Midtex Partners, Ltd., (Midtex) filed neither exceptions nor a reply. I recommend that the Commission overrule Pflugerville's exceptions.

Pflugerville contends that I erred in comparing the effluent application rate directly to soil permeability and stating that there was no evidence to contradict Midtex's expert's conclusion that the soil was sufficiently permeable. It also claims that I oversimplified a portion of my analysis. Despite reading the exceptions, neither alleged error is obvious to me, and Pflugerville does not cite specific language on a specific page of the PFD that it would have me change.

More importantly, Pflugerville does not ask the Commission to add to, delete, or modify any of the proposed findings of fact and conclusions of law. As such, there is no meaningful and substantive exception for the Commission to grant.

Sincerely,

A handwritten signature in black ink, appearing to read "William G. Newchurch".

William G. Newchurch
Administrative Law Judge

WGN:nl
cc: Mailing List

William P. Clements Building
Post Office Box 13025 ♦ 300 West 15th Street, Suite 502 ♦ Austin Texas 78711-3025
(512) 475-4993 Docket (512) 475-3445 Fax (512) 475-4994
<http://www.soah.state.tx.us>

STATE OFFICE OF ADMINISTRATIVE HEARINGS

AUSTIN OFFICE

300 West 15th Street Suite 502

Austin, Texas 78701

Phone: (512) 475-4993

Fax: (512) 475-4994

SERVICE LIST

AGENCY: Environmental Quality, Texas Commission on (TCEQ)

STYLE/CASE: MIDTEX PARTNERS LTD

SOAH DOCKET NUMBER: 582-06-1581

REFERRING AGENCY CASE: 2005-1720-MWD

**STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**ADMINISTRATIVE LAW JUDGE
ALJ WILLIAM G. NEWCHURCH**

REPRESENTATIVE / ADDRESS

PARTIES

DOCKET CLERK
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
OFFICE OF THE CHIEF CLERK
PO BOX 13087
AUSTIN, TX 78711
(512) 239-3300 (PH)
(512) 239-3311 (FAX)

JOHN J CARLTON
ATTORNEY AT LAW
ARMBRUST & BROWN, LLP
100 CONGRESS AVENUE, SUITE 1300
AUSTIN, TX 78701-2744
(512) 435-2308 (PH)
(512) 435-2360 (FAX)
(512) 785-8355 (CELL)
jcarlton@abaustin.com

CITY OF PFLUGERVILLE

MARK ZEPPA
LAW OFFICES OF MARK H. ZEPPA, P.C.
4833 SPICEWOOD SPRINGS ROAD, STE 202
AUSTIN, TX 78759-8436
(512) 346-4011 (PH)
(512) 346-6847 (FAX)

MIDTEX PARTNERS, LTD.

EMILY COLLINS
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
OFFICE OF PUBLIC INTEREST COUNSEL
MC-175 P.O. BOX 13087
AUSTIN, TX 78711-3087
(512) 239-6823 (PH)
(512) 239-6377 (FAX)

OFFICE OF PUBLIC INTEREST COUNSEL

ROBERT D BRUSH
STAFF ATTORNEY
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
ENVIRONMENTAL LAW DIVISION
PO BOX 13087
AUSTIN, TX 78711
(512) 239-5600 (PH)
(512) 239-0606 (FAX)

COURTESY COPY

STUART HENRY
HENRY & POPLIN
1350 INDIAN SPRINGS
DRIPPING SPRINGS, TX 78620
(512) 858-0385 (PH)
(512) 708-1297 (FAX)
stuarthenry@wildblue.net

WILBERT ALVIN BECKER

RONALD D. AND MARILYN L. DIENER

SONNY AND BETTY MELBER

CALVIN F. AND VERA LEE HAMANN

RICHLAND COMMUNITY ASSOCIATION, HAL
KUEMPEL, PRESIDENT

xc: Docket Clerk, State Office of Administrative Hearings